

Feb 01, 2019

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

MELINDA KAY STODA,

Plaintiff,

v.

HOLLY McCaughey, d/b/a  
RIVIERA MOBILE HOME PARK;  
ED DILUCK, d/b/a GOLDEN BELL  
LLC; TONY BRANSON, Olsen Law  
Firm PLLC; ASHTON REYAZAT,  
Olsen Law Firm PLLC,

Defendants.

No. 4:19-cv-05017-SAB

**ORDER DENYING INJUNCTIVE  
RELIEF; DISMISSING CASE FOR  
LACK OF SUBJECT-MATTER  
JURISDICTION**

On January 30, 2019, pro se Plaintiff filed a Complaint and Request for Immediate Injunction. ECF No. 1. Plaintiff brings this action “to stop the unlawful stealing of her property, stop harassment and ongoing intentional infliction of emotional distress caused by the Defendants[.]” ECF No. 5 at 3. Plaintiff is attempting to obtain a court order to prevent the foreclosure sale of her mobile home.

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LACK OF SUBJECT-MATTER JURISDICTION**

1 A review of Plaintiff's Complaint and related filings raises concern about  
2 the Court's jurisdiction to hear this matter.

3 "Federal courts are courts of limited jurisdiction." *Kokkonen v. Guardian*  
4 *Life Ins. Co. of America*, 511 U.S. 375, 377 (1994). Generally, "[i]t is presumed  
5 that a cause lies outside [the] limited jurisdiction [of the federal courts] and the  
6 burden of establishing the contrary rests upon the party asserting jurisdiction.' "

7 *Abrego Abrego v. The Dow Chem. Co.*, 443 F.3d 676, 684 (9th Cir. 2006) (quoting  
8 *Kokkonen*, 511 U.S. at 377) (alterations in original). A federal court must dismiss  
9 the action if the court determines at any time that it lacks subject-matter  
10 jurisdiction. Fed. R. Civ. P. 12(h)(3).

11 Plaintiff's Complaint indicates the Court has federal question jurisdiction  
12 over this matter. ECF No. 1 at 3; 28 U.S.C. § 1331. However, Plaintiff's motion  
13 for preliminary injunction alleges Defendants violated various Washington laws  
14 and administrative codes. ECF No. 5 at 4-6. Thus, it appears that Plaintiff's claims  
15 are based on state law, not federal law or the United States Constitution.

16 Given the questions surrounding subject-matter jurisdiction, the Court  
17 denies Plaintiff's request for injunctive relief. Plaintiff is advised that superior  
18 courts in the state of Washington are courts of general jurisdiction and may be a  
19 more appropriate venue to address the claims raised in the Complaint.

20 Additionally, the Court dismisses Plaintiff's Complaint with leave to amend.  
21 See *Lucas v. Dep't of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995) (explaining that a  
22 pro se plaintiff must be given an opportunity to amend unless it absolutely clear  
23 that no amendment can cure the deficiencies in the complaint). Plaintiff shall have  
24 thirty (30) days to file an amended complaint. If Plaintiff decides to file an  
25 amended complaint, she is advised to amend in a way that demonstrates to the  
26 Court why it has subject-matter jurisdiction to hear this case.

27

28 **ORDER DENYING INJUNCTIVE RELIEF; DISMISSING CASE FOR**  
**LACK OF SUBJECT-MATTER JURISDICTION**

1 Accordingly, **IT IS ORDERED:**

2 1. Plaintiff's Motion for Immediate Preliminary Injunction, ECF No. 5 is  
3 **DENIED.**

4 2. Plaintiff's Complaint is **DISMISSED with leave to amend.** Plaintiff  
5 shall have thirty (30) days to file an amended complaint. Plaintiff is  
6 notified that failure to do so will result in the dismissal of this action.

7 3. Any remaining motions are **DISMISSED as moot.**

8 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter  
9 this Order and provide copies to counsel and pro se Plaintiff.

10 **DATED** this 1st day of February 2019.



15 A handwritten signature in blue ink that reads "Stanley A. Bastian". The signature is fluid and cursive, with a blue horizontal line underneath it.

16  
17 Stanley A. Bastian  
18 United States District Judge  
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